

### REMARKS

Reconsideration of the present application is respectfully requested. Claims 6, 7, 12, 13, 20 and 36 have been canceled. Claims 1, 8, 17 and 33 have been amended. No new matter has been added.

In the Office Action, claims 21-29 were allowed. Dependent claims 7, 13, 20 and 36 were objected to but were indicated as reciting allowable subject matter. Claims 37-39 were rejected under 35 U.S.C. § 112, second paragraph, and under 35 U.S.C. § 101, but were otherwise indicated as reciting allowable subject matter. Claims 1-6, 8-12, 14-19 and 30-35 were rejected under 35 U.S.C. § 103(a) based on U.S. Patent no. 6,295,541 of Bodnar in view of U.S. Patent no. 6,067,551 of Brown.

#### § 103 Rejections

Independent claim 1 has been amended to incorporate limitations of claims 6 and 7 (now canceled). Independent claim 8 has been amended to incorporate limitations of claims 12 and 13 (now canceled). Independent claim 17 has been amended to incorporate limitations of claim 20 (now canceled). Independent claim 33 has been amended to incorporate limitations of claim 36 (now canceled).

Therefore, the rejections under 35 U.S.C. § 103(a) have been overcome.

#### § 112 and § 101 Rejections

Applicant respectfully submits that the rejection of claims 37-39 under § 112 and § 101 are clearly wrong.

The Examiner contends that there is "insufficient antecedent basis" for the limitation, "a processing system" in claim 37 (Office Action, pp. 2-3). This rejection does

not make sense. The words, "A processing system" are the very first words in claim 37 -- the claim is directed specifically to "A processing system". It is impossible for this phrase to lack sufficient antecedent basis in the claim, since there are no words before this phrase in the claim. The concept of antecedent basis has no applicability to that phrase.

Furthermore, if the Examiner was trying to say that this phrase lacks support in the description, Applicant respectfully disagrees. Applicant clearly describes an example of a "processing system" in the description in paragraph [0018], Figure 10, and the related text.

Moreover, the term "processing system" is clear and definite on its face. Any person of ordinary skill in the art would understand its meaning in this context, especially when read in light of the description and in light of the elements that follow the preamble in claim 37. Therefore, the rejection under 35 U.S.C. § 112 is improper and should be withdrawn.

The rejection of claim 37 under 35 U.S.C. § 101 is also clearly improper. The Examiner contends that claim 37 is not statutory "because they [sic] merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application within the technological arts" (Office Action, p. 3). That contention does not withstand scrutiny. Claim 37 recites:

37. (Original) A processing system comprising:  
    a processor;  
    a data communication device coupled to the processor to  
    communicate data with a plurality of remote devices, at least one of  
    which operates on a wireless telecommunications network; and  
    a storage facility coupled to the processor and storing instructions  
    for execution by the processor to cause the processing system to perform

a method comprising:  
maintaining a truth database representing a true state of data maintained by the devices;  
maintaining an action database indicating actions to be performed on the devices during a next update;  
retrieving the data from the devices, including communicating with at least one of the devices over the wireless telecommunications network;  
determining actual current states of individual elements of the data based on the action database and the data retrieved from the devices;  
updating the truth database and the action database based on a result of determining the actual current states of individual elements of the data;  
creating an effective action database which accounts for any of the devices which were offline during a previous synchronization;  
saving the truth database and the effective action database in an atomic transaction; and  
using the effective action database **to update the data on the devices, including communicating with at least one of the devices over the wireless telecommunications network.**  
(Emphasis added.)

Claim 37 clearly recites more than just a number of computing steps; it recites a useful machine and/or manufacture, and it clearly recites at least one practical application in the technological arts. Claim 37 includes "a processor", "a data communication device" and "storage facility" and recites a specific way in which these components are coupled and cooperate. These features alone are sufficient to make claim 37 statutory subject matter. "If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product." MPEP 2106 (citing *Lowry*, 32 F.3d at 1583, 32 USPQ2d at 1034-35; *Warmerdam*, 33 F.3d at 1361-62, 31 USPQ2d at 1760 (Fed. Cir. 1994)).

Furthermore, claim 37 also recites a practical application in the technological arts, i.e., updating data on a plurality of remote devices that operate on a wireless telecommunications network.

Therefore, the rejection under 35 U.S.C. § 101 is improper and should be withdrawn.

#### Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

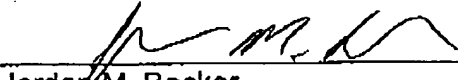
#### Conclusion

For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

If any additional fee is required, please charge Deposit Account No. 02-2666.

Respectfully submitted,  
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